

IRS News Release

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National Taxpayer Advocate Submits Mid-Year Report to Congress; Identifies Priority Challenges and Issues for Upcoming Year

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WASHINGTON — National Taxpayer Advocate Nina E. Olson today delivered a report to Congress that identifies the priority issues the Office of the Taxpayer Advocate will address in the coming fiscal year. Among the key areas of focus will be working with the IRS to improve taxpayer services, enhancing IRS oversight of federal tax return preparers, improving the accessibility of the offer in compromise program, and working with the IRS to improve its ability to administer refundable tax credits effectively.

The report notes that FY 2010 will mark the ten-year anniversary of the Taxpayer Advocate Service, which began operations in March of 2000. “As TAS enters its tenth year, both TAS and the IRS face a difficult environment for achieving what is, in essence, the same mission – ensuring that the IRS treats taxpayers fairly and identifying ways to increase voluntary compliance while addressing noncompliance,” Olson said. She identified the collection of tax revenue at a time when “increasing numbers of taxpayers have difficulty paying their daily living expenses” as a principal challenge.

The Advocate’s report, which is required by law, sets out the objectives of the Office of the Taxpayer Advocate for the upcoming fiscal year and provides substantive analysis of issues and statistical information. Among the areas the report identifies for particular emphasis in FY 2010 are the following:

1. Taxpayer Services. The report notes that the IRS created a five-year strategic plan for taxpayer service (known as the Taxpayer Assistance Blueprint, or “TAB”) in response to a directive from the House and Senate Appropriations Committees in FY 2006. The directive was originally motivated by concern that IRS taxpayer services were often *ad hoc* and not sufficiently coordinated or research-driven. The Advocate’s report expresses concern that the momentum to implement and refine the TAB recommendations has abated. It recommends that the IRS reinvigorate its efforts to pursue cross-functional, research-driven service improvements.

The report also expresses concern about the impact on taxpayers of the IRS’s sharp decline in telephone service. The “Level of Service” on IRS toll-free assistor lines (which reflects the percentage of taxpayers who speak with a telephone assister among all callers seeking to do so), peaked at 87 percent in FY 2004 and remained at a relatively high level of 82 percent as recently as FY 2007. But it plummeted to 53 percent in FY 2008, and the IRS has now reduced its target goal for FY 2010 to 71.2 percent. While the IRS fairly attributes much of the decline in service last year to a sharp increase in calls about Economic Stimulus

Payments, Olson said, “that is small comfort to taxpayers who need assistance and it does not bode well for taxpayer compliance.” TAS will continue to examine taxpayer service issues in the coming year.

2. Oversight of Tax Return Preparers. Tax return preparers complete about 62 percent of all individual income tax returns and therefore play a critical role in facilitating tax compliance. However, “shopping visits” conducted by the Government Accountability Office, the Treasury Inspector General for Tax Administration, and others suggest that a high percentage of preparers prepare inaccurate returns, fail to perform sufficient due diligence, and even take positions that they know are not supportable. This conduct usually results in understatements of tax (reducing federal tax revenue and potentially subjecting taxpayers to enforcement actions) and sometimes results in overstatements of tax (causing taxpayers to pay more than they owe).

The Advocate reiterates her longstanding recommendation that the government do more to protect taxpayers by regulating unenrolled federal tax return preparers, including by requiring initial testing and continuing professional education, and recommends that the IRS step up enforcement actions against preparers who fail to perform due diligence or consciously facilitate noncompliance. She further recommends that the IRS require preparers to use a unique Preparer Tax Identification Number (PTIN) on all returns. The use of PTINs would provide data concerning the number of return preparers, shield the Social Security numbers of return preparers from identity theft, and make it easier for the IRS to identify return preparers who submit unreasonably high numbers of inaccurate returns. TAS looks forward to working with the IRS on an initiative it announced earlier this month to develop a revised return preparer strategy by year-end.

3. Offers in Compromise. For the past nine years, the Advocate has expressed concern about the effectiveness of the IRS’s offer in compromise (OIC) program, a program designed to enable financially struggling taxpayers to pay what they can afford and make a fresh start. The Advocate believes the IRS requires taxpayers to provide too much information with the initial application, thereby deterring taxpayers who legitimately qualify for the program from applying for it. IRS data show that the number of accepted offers has declined by 72 percent over the past seven years, from 38,643 in FY 2001 to 10,677 in FY 2008.

In response to these concerns, the IRS recently announced the formation of an OIC Project Team, which includes TAS representation. As part of this project, the IRS has retained two contractors to take a closer look at the characteristics of applicants who submit acceptable offers and to increase the number of qualifying applicants within the existing process. During the coming year, TAS will continue to devote priority attention to improving the accessibility of the offer program for appropriate taxpayers.

4. Refundable Tax Credits. The American Recovery and Reinvestment Act of 2009 temporarily increased the refundable portions of the Earned Income Tax Credit (EITC) and the child tax credit and authorized several new refundable credits, including the “Making Work Pay” credit, the “American Opportunity” education tax credit (40 percent is refundable), the first-time home buyer credit (up to \$8,000), and a credit for certain federal and state pensioners. While the decision to expand refundable credits is entirely reasonable from a policy standpoint, refundable credits present significant administrative challenges for the IRS.

For example, the report notes that refundable credits may present an increased risk of fraud and that the IRS therefore will need to balance fraud prevention with the timely delivery of refunds. “Refundable credits require the IRS to perform a delicate balancing act,” Olson said. “On the one hand, if the IRS does not do enough to detect and prevent fraud, it may pay out billions of dollars as a result of false and fraudulent claims. On the other hand, if the IRS clamps down too tightly, hundreds of thousands and potentially millions of predominantly low income taxpayers will not receive timely refunds.”

During FY 2010, TAS intends to study this and other issues the IRS will have to address in order to administer refundable tax credits effectively and without undermining its ability to perform its core tax-collection function.

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The National Taxpayer Advocate is required by statute to submit two annual reports to the House Committee on Ways and Means and the Senate Committee on Finance. The statute requires these reports to be submitted directly to the Committees without any prior review or comment from the Commissioner of Internal Revenue, the Secretary of the Treasury, the IRS Oversight Board, any other officer or employee of the Department of the Treasury, or the Office of Management and Budget. The first report is submitted mid-year and must identify the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in that calendar year. The second report, due on December 31 of each year, must identify at least 20 of the most serious problems encountered by taxpayers, discuss the 10 tax issues most frequently litigated in the courts, and make administrative and legislative recommendations to resolve taxpayer problems.

About the Taxpayer Advocate Service

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should. If you believe you are eligible for TAS assistance, you can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059. For more information, go to www.irs.gov/advocate.

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